

- B. Notwithstanding the foregoing provisions hereof regarding Social Services' responsibilities with respect to fraud and abuse, Health shall retain its jurisdiction with respect to licensure of hospitals, as defined under Article 28 of the Public Health Law, HMOs and home health agencies, and physicians, physician assistants and specialists' assistants.
- C. Health retains its authority regarding any provider's violation of Article 33 of the Public Health Law. This will also pertain when the provider's violations occur when providing services in the Medical Assistance program. For the purposes of effectuating penalties designed to deter violations of Article 33 of the Public Health Law, Social Services shall be responsible for monitoring compliance by Medical Assistance providers with orders issued pursuant to Public Health Law Article 33.

X. CIVIL PROCEEDINGS

- A. Social Services shall have authority in those proceedings involving any provider's violation of Article 33 of the Public Health Law for recovery of such sums of money obtained by a provider or other vendor as the result of fraud, abuse, or unacceptable practice in the Medical Assistance program and to perform such other acts as may be necessary to enforce other civil penalties provided for in law. Social Services shall have primary responsibility and authority for interacting with the Department of Law in the defense of those actions brought against Social Services as a result of a determination made relating to its audit functions and in any action brought seeking recovery of overpayments or penalties identified in an audit or review conducted by Social Services.
- B. Health delegates to Social Services the responsibility and authority to defend state and federal litigation involving appeals of final administrative hearing decisions issued by Social Services staff designated by Health. This delegation shall be limited to cases where the primary issue is whether the decision was based on substantial evidence, or where the fair hearing process itself is challenged, either systemically or in individual cases. Health also delegates to Social Services the authority to approve the payment of attorney's fees by Health in appropriate cases, in the course of settlement negotiations, or where directed by a court's decision.

XI. CRIMINAL PROSECUTION

Social Services shall be responsible and shall have the authority for the preparation of cases involving fraud, abuse or unacceptable practice in the Medical Assistance program for referral to an appropriate prosecuting agency or agencies. Nothing herein shall be construed as precluding Health from consulting with or referring matters to such prosecuting agency or agencies.

XII. FEDERAL ADVANCES

- A. Health will periodically obtain, in conformity with applicable Federal regulations and practices, advances against Federal funds

provided for the conduct of the functions and activities herein prescribed and authorized under the Medical Assistance program. Such funds may be received by the State Comptroller and, upon allocation in accordance with applicable provisions of law, shall become available to Health and Social Services in anticipation of Federal reimbursement to which they may become entitled as a result of reasonable and necessary costs incurred in performing the functions authorized by this Agreement.

- B. Health will submit estimates of anticipated costs and entitlement to Federal reimbursement as a result thereof for such periods in accordance with federal requirements. Such costs shall be limited to costs allowable for the functions and activities herein provided in accordance with records maintained by Health or submitted by Social Services, including, but not limited to, the names of employees, salaries paid, hours of performance and specification of such activities; provided, however, that where Health or Social Services utilize services or materials in the execution of this Agreement for purposes which include purposes other than those encompassed by Title XIX, the cost of those services or materials shall be claimed for federal financial participation in accordance with one or more cost allocation plans which meet the requirements of OMB Circular A-87 and 45 CFR 95.507.
- C. At such intervals as Health may reasonably require, Social Services will submit a report of its actual expenses in executing the functions and activities authorized under such Title XIX. Health will determine whether such expenditures were necessary for the performance of the functions authorized by this Agreement and will compare such expenditures and Social Services' entitlement to Federal funds, as a result thereof, to the advances received from Federal funds for the period. If Health's examination of such expenditures determines that any such expenditure was not necessary to the purposes of this Agreement, Health shall inform Social Services of such determination. Social Services will be given a reasonable length of time, but not less than thirty (30) days, to justify such expenditures. If Health thereafter finds that such expenses are not necessary to the performance of such purposes, Social Services' entitlement to Federal reimbursement shall be reduced by an amount so determined and subsequent Federal advances adjusted, by increase or reduction, to compensate for such expense and for any difference between entitlements reported for the prior period and the advance for that period.

XIII. STAFFING

- A. As required by Civil Service Law and regulations, Social Services shall identify and assign to Health such staff, who are substantially engaged in functions related to the supervision of the State's Medical Assistance program, in such numbers as may be required to perform the functions assigned to Health under this Agreement. Staff so identified and assigned shall have relevant background, knowledge, skills and abilities necessary to the performance of such functions and must be acceptable to Health. Staff identified for assignment to Health will have the legally

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prescribed time frames from their notification of assignment to Health to protest such assignment. Health and Social Services shall have joint responsibility for determining the disposition of any such protest.

- B. On an ongoing basis, Social Services and Health shall determine the nature and extent of the staffing needs of each agency with respect to their roles and responsibilities under this Agreement and may develop such staff deployment and redeployment plans to provide for the permanent transfer of such staff as is deemed necessary to effectively perform their respective functions hereunder. Social Services and Health shall effect the permanent reassignment and redeployment of such staff as is deemed necessary to effectively perform their respective functions hereunder in accordance with applicable provisions of the Civil Services Law and related statutes.

XIV. MISCELLANEOUS

- A. Social Services and Health shall observe and require the observance of the applicable requirements relating to confidentiality of records and information and each agrees not to allow examination of records or to disclose information, except as may be necessary for the purpose of obtaining medical care and health services, assuring the propriety of such care and service, or the proper discharge of responsibilities relating thereto, and except as provided by applicable State and Federal laws and regulations.
- B. Social Services and Health shall observe and require the observance of the requirements of Title V of the Civil Rights Act of 1964.

XV. TERMS OF AGREEMENT

- A. This Agreement shall be effective only to the extent that it is found by HCFA to be permitted under applicable Federal law and to the extent that Federal aid is not impaired thereby.
- B. Social Services and Health shall designate specific personnel in each State agency responsible for continuous liaison activities, including regular meetings and summaries thereof provided to the signatories hereto, to evaluate policies that affect the Medical Assistance program.
- C. This Agreement shall run from the date hereof for a period of one year, at which time Health and Social Services shall review the Agreement for any needed changes and jointly plan to incorporate any such changes in the Agreement. If no changes are deemed appropriate, this Agreement shall automatically be renewed upon the same terms for additional periods of one year unless amended in writing by mutual agreement of the parties.
- D. To the extent permitted by law, either party may terminate this Agreement on 30 days advance notice in writing to the other party. If terminated, any funds paid to Health under the provisions of this Agreement which have not been expended or encumbered in

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State of New York

Summary of Agreement between New York State Department of Social Services (DSS) and New York State Office of Mental Health (OMH) (within the New York State Department of Mental Hygiene) dated September 29, 1982 and superceding all previous Agreements. Such agreement serves also as a Provider Agreement between the two agencies.

This Agreement makes provision of coverage under Medical Assistance for the following:

- o persons under care in a general acute care hospital while on release from an OMH facility
- o persons placed in family care on conditional release from an OMH facility
- o persons age 65 or older who are in an OMH facility
- o persons age 21 or younger who are in an OMH facility or a private not-for-profit facility duly certified for such by the OMH
- o persons found in a psychiatric section of a general acute care hospital duly certified by the OMH and the New York State Department of Health

New York State Department of Social Services is responsible for:

1. Furnishing public and/or medical assistance.
2. Establishing standards of eligibility.
3. Determining eligibility within appropriate time frames.
4. Authorizing public and/or medical assistance.
5. Making provision for appeals and fair hearings.
6. Developing, in cooperation with the OMH, a system of reports to be made periodically to DSS relating to necessary data in connection with medical assistance provided.
7. Observing and requiring confidentiality of all records pertaining to client care.
8. Issuing policy, rules and regulations pertaining to the Medicaid program and for interpretation of the State Plan as the Single State Agency.
9. Forwarding to OMH, in a timely fashion, any communications relating to OMH's performance or responsibilities as an authorized medical provider.
10. In cooperation with the OMH jointly plan for developing alternate methods of care for the mentally ill.
11. Periodically transferring Federal Funds to OMH under an advance system.

Approved D.S. JUL. 17 1985

APR. 1 1985

*NY-85-11
superceded*

OFFICIALAttachment 4.16-A
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State of New York

The New York State Office Mental Health is responsible for:

1. Establishing mental health standards for inpatient and outpatient services furnished by public and private facilities.
2. Requiring adherence by State institutions to such standards.
3. Making application to Social Services for public and/or medical assistance on behalf of patients.
4. The marshalling, exploration and verification of all income and resources of patients.
5. Prompt application to Social Security Administration for appointment of Representative Payee as indicated.
6. Notify Social Services within 30 days of any change affecting eligibility.
7. Maintaining records necessary to fully disclose the nature, amount and duration of services reimbursed by medical assistance.
8. Assuring that each OMH facility has in effect a utilization review plan including medical care evaluations as required by applicable statute and/or regulation.
9. Furnishing DSS with notices of adverse utilization review determinations made on behalf of their facility's patients.
10. Billing DSS only for actual and necessary care rendered.
11. OMH agrees to comply with federally mandated disclosure requirements.
12. Conducting periodic medical reviews either directly or through contract of medicaid clients need for or continued care in public or private hospital facilities under OMH's licensure.
13. Participation in fair hearings as advisors or expert witnesses.

Amended Date JUL. 17 1985

APR. 1 1985

*114-85-11
supersedes*

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Summary of Agreement between New York State Department of Social Services (DSS) and the New York State Office of Mental Retardation and Developmental Disabilities (within the NYS Department of Mental Hygiene) (OMR/DD) dated April 19, 1993 and April 30, 1993.

The New York State Department of Social Services shall be responsible for:

1. Establishing or revising standards, policies and procedures for determining eligibility for Medical Assistance.
2. Maintaining, through training programs and prompt updating of procedural changes, ongoing responsibility for the eligibility determination process.
3. Determining eligibility within 30 days of receipt of all information necessary to complete such determination from OMR/DD.
4. Maintaining free access to all eligibility documentation gathered by OMR/DD and periodically auditing that documentation to assure the accuracy and completeness thereof, as the basis for eligibility determinations made by DSS; complete system eligibility information shall be maintained by DSS subject to system purges/limitation.
5. Providing fair hearings in accordance with applicable DSS and HHS regulations for Medical Assistance applicants or recipients served by OMR/DD operated or licensed facilities.
6. Submitting amendments to "State Plan" and submitting this agreement as required by federal rules and serving as liaison with respect to all State Plan amendments, issues of compliance, or any other federal inquiry.
7. Entering into written provider agreements for the provision of Medical Assistance to eligible individuals only with providers certified by the Department of Health as meeting applicable standards for the provision of such services under federal and State law, which agreements will be in the form established and approved by DSS and shall comply with federal survey and certification requirements; DSS shall have the right to refuse to enter into such agreements, cancel, or suspend such agreements, with any provider should it determine that such provider is not in compliance with such requirements or that the provider has failed to comply with any of the terms thereof.
8. Providing a printout of annual redetermination cases at least 90 days prior to the expiration of the current authorization period.

TN 93-22 Approval Date SEP 13 1993
Supersedes TN 85-11 Effective Date APR 30 1993



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The New York State Office of Mental Retardation and Developmental Disabilities shall be responsible for:

1. Making application for Medical Assistance benefits on behalf of potentially eligible clients, and on behalf of those on release from an OMR/DD facility to receive care in a medical facility, application to be made no later than 30 days after receipt of all information needed to support an eligibility determination by DSS.
2. Marshalling, exploring, developing and verifying all income, resources, third-party benefits, and other eligibility information in order that DSS may accurately determine eligibility.
3. Notifying Social Services immediately upon receiving knowledge of any change that affects eligibility for Medical Assistance.
4. Timely notifying Social Services of any newly certified providers, of those providers which are decertified, and of any changes in addresses, ownership program capacity or otherwise.
5. On request, participating in Fair Hearings as advisors and witnesses.
6. Certifying to DSS that all facilities operated or licensed by OMR/DD for which reimbursement is claimed meet applicable federal standards.
7. Supplying Social Services in a timely manner with any documentation requested hereunder.
8. Conducting utilization review activities, required for all medical care and services including:
 - a. development of forms, criteria, training and technical assistance;

approval of UR plans;

placement planning, level of care determinations; and

assuring that the general federal requirements are met (42 CFR 456.1 - 456.23);
 - b. In the case of ICF/DD's assuring that, in addition to meeting general federal criteria, they meet requirements of 42 CFR 456.350 - 456.438 as to -
 - (1) Certificate of need,
 - (2) Evaluation and pre-admission reviews,
 - (3) Plan of care,
 - (4) Written UR review plans,
 - (5) Continued stay review,
 - (6) Description of UR review function.

TN 93-22 Approval Date SEP 13 1993

Supersedes TN 85-11 Effective Date APR 30 1993

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9. Assuring the Independent Professional Reviews (IPR's) are conducted on a regular basis; consulting with Social Services as to their conduct and the contracting therefor; and initiating corrective action for problems identified thereby.
10. Surveying all facilities and programs under its jurisdiction and periodically evaluating all services for the developmentally disabled delivered under the auspices of these facilities and programs, as pertains to Medical Assistance.
11. Establishing regulations and procedures for all facilities and services under its jurisdiction and consulting Social Services regarding same prior to promulgation or implementation thereof, as pertains to Medical Assistance.
12. To ensure high quality provision of services, providing consultative services through its regional offices (District/Borough Developmental Services Office) to all Medical Assistance services administered by OMRDD.
13. Where appropriate, OMR/DD shall seek recoveries of Medical Assistance and credit such recoveries to DSS.
14. Sharing appropriate training materials with DSS when those materials pertain to the delivery of Medicaid services, so that DSS input can be made.
15. Consistent with the delegation of authority accepted by this agreement, where applicable, OMR/DD will establish reimbursement rates, fees and schedules for residential and non-residential care services in consultation with DSS and with the approval of the State Division of the Budget.

TN 93-22 Approval Date SEP 13 1993

Supersedes TN 89-43 Effective Date APR 30 1993

Summary of Agreement between the New York State Department of Social Services (DSS) and the New York State Division of Alcoholism and Alcohol Abuse (within the Department of Mental Hygiene) (DAAA) being dated December 30, 1981.

This agreement relates to the provision of Medicaid benefits to such persons who are admitted for either inpatient or outpatient care and services in facilities that fall under jurisdiction of the Division of Alcoholism and Alcoholism Abuse.

The New York State Department of Social Services shall be responsible for:

1. Establishing standards and criteria of eligibility for Medical Assistance.
2. Authorizing public and/or Medical Assistance.
3. Furnishing public and/or Medical Assistance.
4. Making provisions for appeals and Fair Hearings.
5. Observing and requiring the confidentiality of records according to applicable statutes and regulations.
6. Administering the Medicaid program and verifying the quality and appropriateness of care rendered and reimbursed under this agreement.
7. Reimbursing all allowable direct and indirect expenditures incurred.

The Division of Alcoholism and Alcohol Abuse either directly or through contract with the Office of Mental Health is responsible for:

1. Developing standards and policy governing the provision of medical care and/or rehabilitation relating to alcoholism.
2. Requiring adherence to such standard in state operated or voluntary operated facilities and settings.
3. Making application to Social Services for public or medical assistance on behalf of its patients.
4. The marshalling, exploring and verification of all income and resources of patients.
5. Maintaining records and reports that disclose the amount and duration of care supplied under the Medicaid program including indirect service costs under the Agreement.
6. Conducting annual periodic medical reviews and quality assurance reviews.
7. Billing Social Services only for actual allowable days of care as services provided under Medicaid.
8. Maintaining with Social Services an accurate and updated list of all providers eligible under Title XIX.
9. Participating in fair hearings as advisor or expert witness.

Original Date JUL. 17 1985 Effective Date APR. 1 1985

*NY-85-11
Supersedes
111-74-2*

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Attachment 4.16-A

A. Summary of the Agreement between the New York State Department of Social Services on behalf of the Division of Medical Assistance (DMA) and the New York State Department of Health on behalf of the Center for Community Health (CCH) dated June 12, 1989.

The New York State Department of Social Services shall:

1. Provide local social services with CCH supplied lists and descriptions of current MCH primary and preventive health care programs and programs for CSN (including Maternal and Child Health Block Grant funded programs) operating in the local social services district.
2. Disseminate CCH supplied brochures describing program services and eligibility requirements to local social services districts.
3. Ensure that the local social services districts refer individuals who may be eligible for medical, nutritional or dental services to the local MCH primary and preventive health care programs.
4. Authorize payment of Medical Assistance funds for care, services and supplies covered under the Medical Assistance Program and provided to Medicaid recipients by MMIS enrolled MCH primary and preventive health care and CSN providers.

TN 89-43 Approval Date MAR 13 1992
85-11 JUL 1 1989